

Notice of Allowability

Application No.

10/605,754

Examiner

Amanda F. Wieker

Applicant(s)

RICHEY ET AL.

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the response filed 14 March 2005.
2. ☒ The allowed claim(s) is/are 1-24.
3. ☒ The drawings filed on 23 October 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 2/7/05
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Henry Bennett
Supervisor Patent Examiner
Group 3700

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Paul Szabo on 28 February 2005.

The application has been amended as follows:

In the claims:

Please replace claim 2 with the following amended claim:

--2. (currently amended) An apparatus according to claim 1, wherein the amount of said oxygen in said patient flow line is at least 80% by volume.--

Please replace claim 6 with the following amended claim:

--6. (currently amended) An apparatus for supplying oxygen-enriched gas to a patient and to a high pressure storage tank, comprising: a low pressure, oxygen-enriched gas patient flow line for use by a patient; a separate moderate pressure, oxygen-enriched gas buffer flow line operatively connected to a buffer tank; said moderate pressure ~~beig~~ being greater than said low pressure; said patient flow line and said buffer tank flow line being prioritized so as to continuously supply said oxygen-enriched gas for use by a patient; a radial compressor operated by a power source other than said ~~oxygen-enriched~~ oxygen-enriched gas, said buffer tank solely and operatively connected said radial compressor; said radial compressor being capable of compressing said oxygen-enriched gas to a high pressure; and a high pressure storage tank for portable storage of said high pressure oxygen-enriched gas.--

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Please replace claim 8 with the following amended claim:

--8. (currently amended) An apparatus according to claim 7, wherein the amount of said oxygen in said patient flow line is at least 80% by volume, and wherein said prioritization includes a determination of the oxygen-enriched gas operatively delivered to said radial compressor by an oxygen sensor and the operation of said radial compressor being terminated when said sensed oxygen-enriched gas is below a pre-determined oxygen level.--

Please replace claim 17 with the following amended claim:

--17. (currently amended) A process according to claim 16, where the pressure of said oxygen-enriched gas in said high pressure storage tank is at least 500 psi, wherein said radial compressor includes at least two piston cylinder assemblies radially arranged around a crank shaft, and said piston cylinder assemblies adapted to sequentially compress said oxygen-enriched gas from said first piston assembly through said last piston assembly.--

Terminal Disclaimer

2. The terminal disclaimer filed on 14 March 2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent Number 6,805,122 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Allowable Subject Matter

3. Claims 1-24 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda F. Wieker whose telephone number is 571-272-4794. The examiner can normally be reached on Monday-Thursday, 8:30 - 6:00 and alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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